

**Amendment No. 1 to SB3256**

**McNally**  
**Signature of Sponsor**

**FILED**

Date \_\_\_\_\_

Time \_\_\_\_\_

Clerk \_\_\_\_\_

Comm. Amdt. \_\_\_\_\_

**AMEND Senate Bill No. 3256**

**House Bill No. 3301\***

In Section 2 of the printed bill by adding the following new subsection:

(e) There is appropriated a sum sufficient to distribute to local governments all state taxes shared with such governments in accordance with current statutes.

AND FURTHER AMEND in Section 3 of the printed bill by adding the following new subdivisions:

(o) The department of conservation and environment for the operation of state parks.

(p) The department of education for payments under the basic education program and for extended contracts.

AND FURTHER AMEND in Section 9 of the printed bill by deleting the second sentence thereof.

AND FURTHER AMEND, by adding the following new sections immediately preceding the last section and by renumbering the subsequent section accordingly:

SECTION \_\_\_\_.

(1) Tennessee Code Annotated, Section 67-4-1004, is amended by deleting the language "six and one-half (6 ½) mills" in subsection (a) and by substituting instead the language "thirteen (13) mills".

Tennessee Code Annotated, Section 67-4-1004, is further amended by adding the following new subsection:

(c) Any wholesale dealers, jobbers, tobacco distributors, and retail dealers having cigarette tax stamps, affixed and unaffixed, in their possession on July 1, 2002, shall not be required to pay the additional

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cigarette tax resulting from the increase in tax rate from six and one-half (6 ½) mills to thirteen (13) mills on cigarettes to which such stamps in their possession are or shall be affixed.

(2) Tennessee Code Annotated, Section 57-3-302(a), is amended by deleting the language "one dollar and ten cents (\$1.10)" and by substituting instead the language "one dollar and ninety-eight cents (\$1.98)".

(3) Tennessee Code Annotated, Section 57-3-302(b) is amended by deleting the language "four dollars (\$4.00)" and by substituting instead the language "seven dollars and twenty cents (\$7.20)".

(4) Tennessee Code Annotated, Section 57-5-201(a), is amended by deleting the language "three dollars and ninety cents (\$3.90)" and by substituting instead the language "seven dollars and two cents (\$7.02)".

(5) Tennessee Code Annotated, Section 57-6-104(c)(5), is amended by inserting the language "or the state privilege tax levied in Tennessee Code Annotated, Section 57-5-201" immediately following the words "excise tax" in the first sentence.

SECTION \_\_\_\_.

(1) Tennessee Code Annotated, Section 67-6-101, is amended by adding at the end of the section the sentence "The tax imposed by this chapter is a state tax for state purposes only and no county or municipality or taxing district shall have power to levy any like tax.".

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(2) Tennessee Code Annotated, Section 67-6-102, is amended by adding the following language as a new subitem 28 and by renumbering the remaining subitems accordingly:

(28) "Single article" means that which is regarded by common understanding as a separate unit exclusive of any accessories, extra parts, etc., and that which is capable of being sold as an independent unit or as a common unit of measure, a regular billing or other obligation. Such independent units sold in sets, lots, suites, etc., at a single price shall not be considered a single article. Parts or accessories for motor vehicles that are installed at the factory and delivered with the unit as original equipment and/or parts or accessories for motor vehicles that are installed by the dealer and/or distributor prior to sale, at the time of the sale, or which are included as part of the sales price of the vehicle shall be treated as a part of the unit. In addition, all necessary parts and equipment installed by a motor vehicle dealer which are essential to the functioning of the motor vehicle or are required to be installed on the motor vehicle prior to sale to the ultimate consumer pursuant to state or federal statutes relating to the lawful use of the motor vehicle shall be treated as a part of the unit. Boat motors, other parts or accessories for boats, freight, and labor, excluding trailers, shall be treated as part of the boat unit in the same manner as parts or accessories for motor vehicles are treated as part of the motor vehicle unit. Parts and accessories and

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any other additional or incidental items or services that are part of the sale of a manufactured home shall be treated as part of the manufactured home unit in the same manner as parts and accessories for motor vehicles are treated as part of the motor vehicle unit.

(3) Tennessee Code Annotated, Section 67-6-103(f), is amended by deleting the language "six percent (6%)" and by substituting instead the language "eight and three-quarters percent (8.75%)" and by deleting the language "as well as pursuant to the local option revenue act in part 7 of this chapter,".

(4) Tennessee Code Annotated, Section 67-6-202(a), is amended by deleting the language "at the rate of six percent (6%) of" and by substituting instead the language "on" and by adding at the end of the subsection the language "The tax shall be levied at the rate of eight and three-quarters percent (8.75%) of the first one thousand six hundred dollars (\$1,600) of the sales price of each single article of tangible personal property and at the rate of six percent (6%) of the part of the sales price of each single article that exceeds one thousand six hundred dollars (\$1,600)."

(5) Tennessee Code Annotated, Section 67-6-203, is amended by deleting the language "six percent (6%)" in subsection (a) and by substituting instead the language "the tax levied on the sale of tangible personal property at retail by the provisions of § 67-6-202".

(6) Tennessee Code Annotated, Section 67-6-204, is amended by deleting the language "six percent (6%)" wherever it appears in subsections (a)

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and (c) and by substituting instead the language "the tax levied on the sale of tangible personal property at retail by the provisions of § 67-6-202".

(7) Tennessee Code Annotated, Section 67-6-205, is amended by deleting the language "six percent (6%)" in subsection (a) and by substituting instead the language "the tax levied on the sale of tangible personal property at retail by the provisions of § 67-6-202".

(8)

(a) Tennessee Code Annotated, Title 67, Chapter 6, is amended by deleting §§67-6-701 through 67-6-710, 67-6-713 and 67-6-714 for transactions occurring on or after July 1, 2002.

(b) Tennessee Code Annotated, Section 67-6-712(a), is amended by deleting the language "The tax levied by a county under this part shall be distributed as follows:" and by substituting instead the following language:

Estimates, distributions and expenditures of proceeds pursuant to

§67-6-715(b) shall be subject to the following requirements:

(9) Tennessee Code Annotated, Title 67, Chapter 6, Part 7, is amended by adding the following language to be designated as Section 67-6-715:

Section 67-6-715.

(a) Notwithstanding any provision of law to the contrary, in accordance with estimates developed by the department of revenue pursuant to subsection (b), a sum shall be earmarked and allocated from

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the general fund each fiscal year in order to substantially reimburse counties and municipalities for loss of revenue resulting from amendments to Title 67, Chapter 6, provided in the provisions of items (1) through (14) of this section.

(b) For fiscal year 2002-2003 and for each fiscal year thereafter, the department of revenue shall estimate for each county and municipality the loss of local option sales tax revenue resulting from amendments to Title 67, Chapter 6, provided in the provisions of items (1) through (14) of this section. In calculating such estimate, the department shall utilize the local option sales tax rate in effect or operative in such county or municipality on June 1, 2002; the single article cap imposed by §67-6-702(a)(1) on June 1, 2002; and the local tax rate allocation in effect in such county or municipality on July 1, 2002, pursuant to the provisions of Sections 9 and 10 of Chapter No. 719 of the Public Acts of 2002; and the provisions of §§6-51-115. The department shall also utilize any other data or information that the department deems relevant. In accordance with such estimate and subject to the provisions of subsection (c) and §67-6-712, each county and municipality shall receive an amount that is approximately equal to the amount of local option sales tax that the county or municipality would have received during the fiscal year, in the absence of the provisions of items (1) through (14) of this section. It is the legislative intent that distributions made pursuant to this subsection

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shall be subject to the distribution and expenditure requirements of §67-6-712.

(c) From the sum earmarked, allocated and distributed each fiscal year to counties and municipalities pursuant to this section, one and one hundred twenty-five thousandths percent (1.125%) shall be retained by the department of revenue to cover the state's expenses in implementing and administering the provisions of this section and in distributing such funds to counties and municipalities.

(10) Notwithstanding the provisions of items (1) through (14) of this section to the contrary, sales to or use by a contractor, subcontractor, or material vendor of tangible personal property, including rentals thereof and labor or services performed in the fabrication, manufacture, delivery, or installation of such tangible personal property when such property is sold or used solely in performance of a lump sum or unit price construction contract entered into prior to June 15, 2002, or awarded by the state or a political subdivision pursuant to a bid opening which occurred prior to June 15, 2002, shall be subject to tax at the state rate of six percent (6%) plus the local option sales tax rate in effect on June 15, 2002 in the county or municipality in which the property is sold or used. In addition, sales to or use by a subcontractor of tangible personal property, including rentals thereof and labor or services performed in the fabrication, manufacture, delivery, or installation of such tangible personal property when such property is sold or used solely in performance of a written subcontract

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entered into prior to September 1, 2002, if such subcontract is made pursuant to a general contract qualifying for the reduced rate of tax as set out above, shall be subject to tax at the rate of six percent (6%) plus the local option sales tax rate in effect on June 15, 2002 in the county or municipality in which the property is sold or used. Any vendor making such sales to any such contractor or subcontractor shall collect tax at the rate of eight and three-quarters percent (8.75%). Any such contractor paying eight and three-quarters percent (8.75%) may then file a claim with the commissioner of revenue for a refund of any such tax paid to any of the contractor's vendors at a rate in excess of six percent (6%) plus the local option sales tax rate in effect on June 15, 2002 in the county or municipality in which the property is sold or used. For purposes of this subsection the term "lump sum or unit price construction contract" means a written contract for the construction of improvements to real property under which the amount payable to the contractor, subcontractor or material vendor is fixed without regard to the costs incurred in the performance of the contract. The provisions of this paragraph shall not be construed to increase the rate of tax imposed pursuant to the provisions of Tennessee Code Annotated, Section 67-6-206.

(11) Tennessee Code Annotated, Section 67-4-506, is amended by deleting the section in its entirety.

(12) Tennessee Code Annotated, Section 67-6-102(24), is amended by adding the following language as a new subdivision (I):



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(l) "Retail sale" or "sale at retail" includes sales by which merchandise is sold or delivered to the user through the use of a vending machine.

(13) Tennessee Code Annotated, Section 67-6-226 is amended by deleting the language "eight and one-quarter percent (8.25%)" and by substituting instead the language "eight and three-quarters percent (8.75%)".

(14) Tennessee Code Annotated, Section 67-6-227 is amended by deleting the language "eight and one-quarter percent (8.25%)" and by substituting instead the language "eight and three-quarters percent (8.75%)".

SECTION \_\_\_\_\_. The commissioner of revenue is authorized to promulgate rules in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5, to implement and administer the provisions of the sections of this act added by this amendment. This authority should be interpreted broadly to enable the commissioner to give effect to the legislative intent. Such rules, to the extent deemed necessary by the commissioner for timely implementation of this act, shall include public necessity and emergency rules.